IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO. 583 OF 1992

Sarojini V. Shetty ... Petitioner

V/s

Lokmanya Tilak English School & ors. ... Respondents

Mr. Mihir Desai for the petitioner.

Mr. Maniar for respondent Nos. 1 & 2.

Mr. A.R. Shinde for Respondent Nos. 3, 4 & 5.

CORAM: S. RADHAKRISHNAN & P.V. KAKADE, JJ.

DATED: 2ND SEPT., 2004.

P.C.:

1. By this petition, the petitioner is challenging the action of the respondent State of Maharashtra in not treating the qualification of the petitioner's as S.G.T.C. (2 years) from the State of Karnataka to be equivalent to D.Ed. (2 years)/D.P.Ed. (2 years). She has also claimed the benefit that her service from 1970 to 1976 be treated as Trained Service.

2. After hearing the parties for some time, learned counsel for the petitioner has stated that though the

petitioner had claimed the relief of promotion, as the petitioner has now retired on 7.8.1999 and as such the petitioner is not claiming the relief of promotion to the post of Head Mistress from 1.9.1991 though she was entitled to and she is restricting her monetary claim only for the purpose of proper fixation of pension. The learned counsel for the petitioner states that the petitioner ought to be treated as if promoted on 1.9.1991, inasmuch as, the petitioner's qualification as S.G.T.C. from the State of Karnataka has been treated to be equivalent by the State of Maharashtra by its Govt. Resolution dated 30th October, 1987 wherein in paragraph 3 it is very categorically stated that the said qualification be treated as equivalent to D.Ed. of Maharashtra State, however, the said Govt. Resolution makes it clear that the said concession will not be available after 30th October, 1987. There is no dispute in the instant case that the petitioner was in service prior to this circular and that she had completed her S.G.T.C. from the State of Karnataka. The Govt. of Maharashtra by the said G.R. has clearly stated that the T.C.H. Course of State of Karnataka would be treated as equivalent to D.Ed. If that be so, the petitioner ought to have been treated as a Trained Teacher right from 1970 and in fact even the petitioner

would have been entitled promoted to the post of Head Mistress w.e.f. 1.9.1991, as she was the senior most on that date.

3. However, the learned counsel for the petitioner, on specific instructions from his client, the petitioner, who is present personally, has filed an affidavit dated 2.9.2004 wherein the petitioner has restricted her claim to the extent that her notional promotion as a Headmistress be granted w.e.f. 1.9.1991 only for the purpose of computing the proper pension to which she will be entitled. The said affidavit makes it clear that the petitioner is not claiming any back wages upto the date of retirement on the basis that she would have been promoted as Head Mistress. The petitioner has restricted her claim for revision of pension as if she was promoted as Head Mistress from 1st Sept., 1991. If that be so, when she had retired from the month of August, 1999, whatever may be last drawn salary, as if she were to be a Head Mistress, the pension ought to be computed. In view of the aforesaid Government Resolution dated 30th October, 1987, as the State of Maharashtra has categorically mentioned in the said Government Resolution of the Karnataka State's S.G.T.C. (2 years) to be equivalent to D.Ed.(2 years) of

Maharashtra State, the petitioner ought to have been treated as Trained Teacher from 1987. If that be so, the petitioner would be been entitled to have been promoted in September, 1991. On that basis, we are in full agreement with the contention of the learned counsel for the petitioner that the petitioner is entitled to be treated notionally to have been promoted in the month of September, 1991 as a Head Mistress and, as such, the pension ought to have been computed.

4. Under the circumstances, we are directing the respondent State of Maharashtra to compute the pensionary benefits of the petitioner as if she was notionally promoted in the month of September, 1991 as Head Mistress and retired in the month of August, 1999 and calculate the last drawn salary and compute the pensionary benefits and pay the pension accordingly to the petitioner hereafter and also calculate the difference in the pension paid to her already and the pension otherwise she was entitled to and pay the said difference also.

5. The learned counsel for the petitioner states that the petitioner will submit all the requisite forms, etc. signed at the relevant places to respondent Nos. 1 & 2

within two weeks. The learned counsel for respondents 1 & 2 states that all the requisite papers will be forwarded to respondents 3, 4 & 5 as expeditiously as possible preferably within a period of four weeks from today. Thereafter, respondents 3, 4 & 5 shall compute the difference in pension and fix the proper pension and pay the petitioner the proper pension from the month of September, 1999 and also pay the difference in pension which she otherwise would have been entitled to, within a period of eight weeks thereafter.

Rule is made absolute in the above terms.

Parties to act on a true copy of this order duly authenticated by the Court Associate/Personal Assistant.

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(S. Radhakrishnan, J.)

(P. V. Kakade, J.)